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Motions

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ADRIAN SCHOOLCRAFT,

4 Plaintiff,

5 v.

10 Civ. 6005 RWS

6 THE CITY OF NEW YORK, et al.,

7 Defendants.

8 -----x

11 September 25, 2013
12 12:20 p.m.

15 Before:

16 HON. ROBERT W. SWEET,

17 District Judge

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1 (In open court)

2 (Case called)

3 THE COURT: My first question is for the city. What
4 is it that you want that you haven't gotten?

5 MS. METTHAM: So there are three things, your Honor.

6 The first is a service address in writing for
7 plaintiff's father, Mr. Larry Schoolcraft.

8 THE COURT: Well, you've gotten that, haven't you?

9 MS. METTHAM: Your Honor, we got one address from
10 plaintiff during his deposition, and when I tried to send a
11 document by certified mail, it came back and it appeared to be
12 a post office box.

13 I am just asking plaintiff to certify that that is the
14 address at which his father can be served because it appears to
15 be a post office box. It is 300 miles away, so to send a
16 server, it makes it a little more difficult.

17 MR. SMITH: I'll send a letter stating the address
18 again.

19 THE COURT: Can we just shorthand this whole thing?
20 What is the address?

21 MR. SMITH: I am not sure exactly. I think it is
22 107-something-something road.

23 THE COURT: Okay, you've got it.

24 MR. SMITH: Yes, and they have it.

25 MS. METTHAM: We just would like to clarify that that

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1 is an address at which Mr. Schoolcraft lives and can be served
2 personally?

3 THE COURT: Yes.

4 MR. SMITH: Yes.

5 MS. METTHAM: Okay. The second is regards to
6 Mr. Frank Polestro. Plaintiff has mentioned this individual in
7 his complaint. The city defendants have written two motions to
8 the court about this. We wanted any documents plaintiff is in
9 possession of regarding Mr. Polestro.

10 Plaintiff has continued to respond with, "We have no
11 additional documents." I am not aware of any original
12 documents, and all I am asking is plaintiff either state there
13 are no documents, as the court ordered in June, or to point
14 defendants to the documents which relate to what Mr. Polestro
15 previously produced. That is all.

16 THE COURT: Any problems with that?

17 MR. SMITH: There are about 10,000 pages of documents
18 in this case. There are pleadings this big. I am not aware of
19 any other references to this Officer Polestro, but this record
20 is huge, and --

21 MS. METTHAM: We are only asking for documents.

22 THE COURT: They are not talking about, the city is
23 not asking for any references. They're asking do you have any
24 documents relating to this officer?

25 MR. SMITH: I do not have any.

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1 THE COURT: The city, that means there will be no
2 documents produced by the plaintiffs with respect to this
3 officer.

4 MR. SMITH: Right. The plaintiff has no documents. I
5 have access, like I said, to thousands of pages of documents in
6 this case, and I believe his name appears in some of them.

7 THE COURT: That is a different issue.

8 MR. SMITH: Okay.

9 THE COURT: When you say thousands of documents --

10 MR. SMITH: That they have produced.

11 MS. METTHAM: I am not asking about my documents. I
12 am asking about his --

13 THE COURT: That satisfies the city?

14 MS. METTHAM: Yes, your Honor.

15 The third item relates to plaintiff had an initial
16 deposition on October 11th of last year. During his
17 deposition -- and your Honor might recall this, this has again
18 been the topic of two prior motions to compel and court
19 order -- during his deposition plaintiff repeatedly responded to
20 questions about factual matters by stating, "I have to listen
21 to my recordings to answer that."

22 Plaintiff has provided over 125 recordings, some of
23 which are over seven and a half hours long. I assume that he
24 will, rightfully so, will not want the city defendants to hold
25 plaintiff to listen to all 125 of those recordings so that he

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1 could listen to them.

2 We then made a compromise, asked plaintiff to go back
3 to his deposition and all the questions that he answered, "I
4 cannot answer your question without listening to my
5 recordings," to cite to a specific recording responsive to that
6 question and answer portion. This was a motion in March. The
7 court granted it. Then an order to show cause in late May, and
8 on June 6, this Court ordered plaintiff to produce those
9 responses.

10 In July plaintiff respond by listing just recordings
11 divorced from the questions to which they respond. In his
12 opposition, Mr. Schoolcraft for the first time stated I have no
13 idea which questions you're referring to. So the city in our
14 reply provided a list of the questions to which we're referring
15 and simply asked plaintiffs state to this question I was
16 referring to this recording. That is what city defendants are
17 requesting.

18 THE COURT: But you want more than simply the
19 recording?

20 MS. METTHAM: No, your Honor. What happened when
21 plaintiff responded he did not state, for example, to question
22 on Page 25 Line 4 this is the recording to which I was
23 referring, he just provided a list of a couple of dozen
24 recordings and said these are responsive to the deposition. So
25 I am asking that to each of these questions, he cite to the

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1 recordings to which he was referring.

2 MR. SMITH: The city made an application saying you
3 made references to the tape recordings as well I am not sure
4 about who told me exactly the number of summonses I had to get
5 on all the occasions. There are a lot of tape recordings, and
6 so the city then said we want amplification about on those
7 circumstances.

8 So I sat down and Mr. Schoolcraft sat down and we read
9 through the deposition, and because the questions were very
10 unclear, I broke down the areas that I thought the city was
11 asking about because in their initial application, they didn't
12 say oh, we asked you this question and you gave us this answer
13 and it is adequate. They just sort of said we want further
14 amplification on how many people, this, that or the other
15 thing.

16 I did their work for them and I said okay, this is the
17 number of occasions where he was told a specific number, quota
18 for summonses, and this was the occasion or these were the
19 occasions when he was told he could close overtime. So I broke
20 it down into subject matters.

21 Then I provided a list. After listening to all the
22 tape recordings that were relevant and provided, this is the
23 time, this is the date, this is the specific recording that it
24 refers to, and now two months later they come back and say no,
25 we want you to do more work on this because we want you to do

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1 more work on this forever, frankly.

2 They haven't told you, your Honor, there is this piece
3 of information that they need. They're not being specific what
4 it is they're looking for.

5 MS. METTHAM: I did list the questions.

6 MR. SMITH: In a reply she puts 75 questions for the
7 first time after three motions and dozens of letters.

8 THE COURT: Can you answer the 75 questions by just
9 slotting in what you've already done?

10 MR. SMITH: No. It is just make-work, Judge. They
11 literally have put in like, it looked to me like around 75
12 questions. Now I have to cut and paste them and put them
13 together. What is this for other than to waste my time?

14 I have got a discovery schedule to move forward here.
15 They're taking his deposition in two days. They can ask him
16 some of these questions. This is make-work, frankly.

17 MS. METTHAM: Believe me, I am not intending to create
18 any more work for anybody on this case let alone myself.

19 We simply, during his deposition, when asking him
20 simple factual questions, he would not even respond to
21 questions such as can you give me the approximate time period
22 to limit these recordings to.

23 THE COURT: I just heard there is a deposition coming
24 up?

25 MS. METTHAM: Yes, your Honor.

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1 MR. SMITH: Tomorrow, Mr. Schoolcraft.

2 MS. METTHAM: Mr. Schoolcraft. We moved the court
3 last year following his first deposition --

4 THE COURT: Okay. Look, would the sensible solution
5 to this problem be that you put your questions and he answers
6 them at the deposition?

7 MS. METTHAM: If he answers them without reference to
8 recordings. The problem is that, for example, tomorrow Mr.
9 Kretz, the attorney for defendant more iello oh, and I are
10 splitting the day. My questioning tomorrow is focused on the
11 five new defendants.

12 THE COURT: Whatever your question is, let's just say
13 it is who talked to you about summonses, you're going to want
14 to know which of the recordings the plaintiff believes relate
15 to that question, right?

16 MS. METTHAM: From the initial point, your Honor, I
17 actually just wanted him to answer the question without
18 reference to recordings. Just tell me which individuals, which
19 defendants, for example. I would acceptance the answers.

20 THE COURT: Will that solve our problem?

21 MR. SMITH: I believe so.

22 THE COURT: Okay.

23 THE COURT: Good luck.

24 MR. KRETZ: At the first session of plaintiff's
25 deposition, he was asked countless numbers of questions by Ms.

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1 Publicker, Ms. Mettham, where he responded, "I can't answer
2 that unless I listen to the recording."

3 THE COURT: That is finished.

4 MR. KRETZ: Where we are, we are going to ask him the
5 question again, and presumably he will say, "I can't answer
6 that without listening to the record."

7 THE COURT: He will not.

8 MR. KRETZ: We don't want to spend hours having him
9 listen to tape recordings that are hours and hours long.

10 How is he going to point that out to us in any kind of
11 efficient way?

12 THE COURT: If a question is asked about -- you talk
13 to him about the summons policy, just for example, and he is
14 going to have to state who. He cannot say, he can't respond by
15 answering, "I don't know because I haven't reviewed the tapes,"
16 because he has reviewed the tapes.

17 MR. KRETZ: If he is able to do that, that will be
18 great.

19 THE COURT: Well, I assume. I assume.

20 MR. SMITH: Yeah. In fact, based on this conference,
21 we are going to have a conversation with Mr. Schoolcraft,
22 Officer Schoolcraft. I am also going to provide him with a
23 list that we provided to --

24 THE COURT: Okay, I got you! All right!

25 MS. METTHAM: Thank you.

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1 THE COURT: Good luck. What time is the deposition?
2 Maybe I should attend!

3 MR. SMITH: 10:00 o'clock, but I think it will be in
4 the City offices, which are not as --

5 THE COURT: Not as pleasant?

6 MS. METTHAM: It's in the offices of Mr. Kretz, which
7 I imagine are quite more hospitable.

8 THE COURT: Elegant! All right.

9 So we have dealt with the city's problem.

10 MS. METTHAM: Thank you.

11 THE COURT: Your problem?

12 MR. SMITH: There are two-fold.

13 One is the attorney's eyes only stipulation which has
14 put me in a straightjacket in this case. The second thing is I
15 can't believe I am standing here asking a federal judge to
16 order the defendants to return Officer Schoolcraft's own
17 personal property. Those are the two items.

18 THE COURT: The eyes only? Now, right, wrong or rain,
19 I think what I said, I had already dealt with that to this
20 extent it is witnesses and parties. I think I have already
21 done that. Haven't I?

22 MS. METTHAM: You have not. However, the city
23 defendants, after we received plaintiff's letter, dated August
24 30th, we responded last Monday and removed the attorney eyes
25 only designation from 600 pages of documents, which included

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1 witnesses with relevant information.

2 THE COURT: Okay. That much is done.

3 What more needs to be done?

4 MS. METTHAM: Your Honor, there are three categories
5 of documents, as we see it. The first category are
6 confidential and sensitive records relating to two of
7 plaintiff's family members.

8 THE COURT: Yes. Now, why does he need -- you know
9 it. You've got it. Why does he need it?

10 MR. SMITH: Well, first off, I don't have it.

11 A lot of the confidential stuff that is subject to the
12 attorney's eyes only limitation is also redacted because it's a
13 privacy interest. It is like peeling an onion that never gets
14 unpeeled. It is comical, frankly, but nevertheless, some of
15 the stuff that is not completely redacted even from the
16 attorney's eyes only stuff pertains to financial records,
17 criminal background records.

18 THE COURT: We were just talking about the comments
19 about the family.

20 MR. SMITH: Yeah. Why should all of the defendants
21 know and have --

22 THE COURT: You --

23 MR. SMITH: I know, but why shouldn't the plaintiff
24 know, maybe I should or I shouldn't call this person as a
25 witness, or maybe I should know what they know because

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1 otherwise I am in the dark.

2 That is the problem, frankly, getting deeper into this
3 about the attorney's eyes only. It handcuffs a lawyer. It
4 puts him in a situation where his own client says you know
5 something that I don't know, and I am not allowed to know it
6 because this whole process dubs me unworthy of having this
7 information.

8 And, you know, Judge, that is not an easy situation to
9 be put in, but I shouldn't be put in that position without a
10 very good reason. They fail to provide any very good reason.

11 THE COURT: What is the reason with respect to the
12 family issue?

13 MS. METTHAM: To be clear, your Honor, he is pointing
14 to co-defendants, stating that their defendants have access to
15 these documents. Co-defendants, if I am not mistaken, their
16 clients are also subject to the attorney's eyes only
17 stipulation. Is that correct?

18 MR. RADOMISLI: That's correct.

19 MS. METTHAM: It is not like a doctor's eyes, a doctor
20 has access to documents and Mr. Schoolcraft does not.

21 Additionally, I believe these are sensitive and
22 confidential and ought to remain that way. These two
23 individuals called IAB of their own volition and made
24 statements to IAB.

25 IAB, in investigating and trying to determine what

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1 interests might be at stake for these individuals contacting
2 IAB, they ran some law-enforcement-sensitive searches on
3 plaintiff's father and sister. I believe it would be
4 inappropriate to give these documents of a sensitive nature to
5 plaintiff especially considering, for example, the sister, I
6 don't believe they have a relationship, according to the
7 documents produced in this case, and it seems it would violate
8 the kind of trust in IAB.

9 THE COURT: I will maintain a stipulation with respect
10 to that category. What is next?

11 MS. METTHAM: The second category relates to non-party
12 arrestees. This is a little confusing.

13 THE COURT: Yes. Let me ask the plaintiff, this is
14 not an issue in the case, is it?

15 MR. SMITH: It frankly is not an issue at all because
16 the information that was provided under the attorney's eyes
17 only stipulation redacts out the names of the arrestees. This
18 is just a complete red herring. It is an irrelevant issue. I
19 don't have the names of the arrestees, so I can't turn them
20 over to my client because I don't have them.

21 I don't know why this is thrown up as a sort of
22 important thing. It is ridiculous.

23 MS. METTHAM: To begin, your Honor, I have to admit
24 publicly that I honestly don't believe they should have been
25 produced at all in the first place.

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1 THE COURT: In any case --

2 MS. METTHAM: In any case.

3 THE COURT: -- if we leave it where the Good Lord has
4 flung it, there is no harm to either side.

5 MS. METTHAM: Correct.

6 THE COURT: Next?

7 MS. METTHAM: The last category relates to party
8 discipline. I could be off, and I could be off on the number,
9 there are 16 NYPD officers who are defendants in this matter.

10 We have produced disciplinary records and personnel
11 records relating to these individuals under an attorney's eyes
12 only stipulation. Again I don't believe that plaintiff, who
13 was formerly an employee of these individuals and is still
14 technically an employee of the NYPD, should be given access to
15 these individuals' employment disciplinary matters.

16 THE COURT: Well, look, these records presumably will
17 be part of this litigation only if the records reveal something
18 that is going to be relevant to the conduct alleged here,
19 correct?

20 MR. SMITH: Yes.

21 THE COURT: Yes. So I think I don't see at the
22 moment, given skilled counsel for the plaintiff, that there is
23 a need for revealing that information now. Unless you can --

24 MR. SMITH: I can posit an example for where I think
25 the plaintiff ought to be provided with this information.

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1 MS. METTHAM: I would just ask that he --

2 MR. SMITH: Please don't interrupt me.

3 MS. METTHAM: Please not provide confidential
4 information to the court on the record.

5 MR. SMITH: Thank you very much for reminding me of my
6 obligations. I can posit as an example that a supervisor who
7 Mr. Schoolcraft had suggested was attacking or retaliating
8 him --

9 THE COURT: Right.

10 MR. SMITH: -- for complaining about some sort of
11 policy, that that, in fact, that supervisor had been
12 disciplined for doing very similar kinds of things. Why
13 shouldn't the -- I can't get this around my head -- why
14 shouldn't the plaintiff be able to know about very important
15 evidence about the fact that this is not just one isolated
16 incident, but that there are dozens of related incidents where
17 people just, the same guy and the same --

18 THE COURT: Look, that gets into the whole privacy.
19 The city has cited a section of the public officers law with
20 which, to be perfectly honest, I am not familiar.

21 MR. SMITH: This was the Freedom of Information Act.

22 THE COURT: I don't know the extent of it.

23 Clearly any information that is relevant to the
24 charges in this case will ultimately be given to the plaintiff,
25 no question, at trial. If you want to make a case for some of

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1 that information being turned over now with respect to a
2 particular defendant, I would entertain it.

3 The rest, you know, the other stuff that it doesn't
4 relate to our case, I don't see that he needs it. We're
5 aware -- look, there is no sense going over spilt milk, but we
6 know the history here and so I think we have to be a little bit
7 more careful than we might otherwise be.

8 I agree with you, there should not be any blanket. So
9 if there are particular instances of these records which you're
10 aware of which you think the plaintiff should have, tell the
11 city which ones and maybe you can work it out. If you can't,
12 I'll be here.

13 MR. SMITH: All right.

14 THE COURT: Now we get to the property.

15 MR. SMITH: Before we get to the property, I want to
16 revisit one or make one thing very clear at least in my mind.

17 THE COURT: Sure.

18 MR. SMITH: The sensitive information about Officer
19 Schoolcraft's father and his sister that is going to be
20 maintained under this attorney's eyes only limitation is the
21 information about the financial inquiries and the searches for
22 criminal histories because they both made statements all over
23 the record, and I am entitled to that.

24 THE COURT: Yes, sure.

25 MR. SMITH: And he is entitled to that.

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1 THE COURT: All right.

2 MR. SMITH: The property, the property is a
3 no-brainer. By what right does the city have to take -- when I
4 went to law school, taking someone's property is a crime. Here
5 I am arguing I need an order from a federal judge in order to
6 get my own property back. I don't understand it.

7 THE COURT: The city tells me that they cannot turn
8 over the rifle because your client doesn't own the rifle, and
9 they can't turn over a rifle to somebody that doesn't own it.

10 MR. SMITH: When I give them Mr. Larry Schoolcraft's
11 address, they can ship his rifle to him, and that solves the
12 problem, doesn't it?

13 MS. METTHAM: No, your Honor it does not.

14 MR. SMITH: Why not?

15 MS. METTHAM: For one, you can't send firearms in the
16 United States Postal Service.

17 THE COURT: Well, all right.

18 MR. SMITH: You can't? I don't know if that is true,
19 actually.

20 THE COURT: Look --

21 MR. SMITH: They can arrange to deliver that. They're
22 going to get his address.

23 THE COURT: The city tells me that they cannot turn
24 over the rifle to somebody, to your client, because it is not
25 his rifle. That does make some kind of sense to me.

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1 MR. SMITH: I am not arguing with that. Ship it back
2 to Lawrence Schoolcraft. They spent about 10,000 hours chasing
3 him up north in the Adirondacks, so they can make one more trip
4 and return the rifle to the father that they took from Officer
5 Schoolcraft's apartment.

6 THE COURT: Well, at the moment I don't believe I can
7 order them to turn the rifle over to the plaintiff. That's
8 that.

9 If the father wants to make a claim for the rifle, it
10 seems to me he probably -- you know, you know where that is
11 going to go. That is going to go as oh, we need it for
12 evidence in the parallel or subsidiary or however you want to
13 characterize it disciplinary hearing. That is where that is
14 going to go, but we are not there yet because the father hasn't
15 made the request.

16 We'll skip the rifle for the moment.

17 MR. SMITH: Dodge that bullet, I guess?

18 THE COURT: Yeah. How about the pieces of paper?

19 The pieces of paper, I'm told, are department records
20 and belonging to the city, but, on the other hand, he had them.
21 So they were in his possession presumably. So why shouldn't he
22 get those back?

23 MS. METTHAM: He was not supposed to bring them home
24 in the first place, your Honor.

25 THE COURT: Well, that is a different issue. That is

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1 a different issue. The city swept in and grabbed things, and
2 maybe he shouldn't have had them, but he did have them. So why
3 can't they be turned back?

4 If you want to make a thing about that in the
5 disciplinary proceeding, that is fine, there is no factual
6 dispute.

7 MS. METTHAM: I would also just posit that I am not
8 sure, plaintiff keeps stating he has to get an order from a
9 federal judge. I believe he might actually need one from a
10 state judge. I believe the proper course would be for
11 plaintiff to file an action -- it has been a while since law
12 school -- for conversion if he wants the property returned. I
13 don't believe that a federal court has the authority to issue,
14 order NYPD to return an item.

15 I would, however, again suggest that plaintiff follow
16 through with what he asked for in April in which city
17 defendants agreed to in April, which is an inspection of the
18 items and that they continue to be in the property of the NYPD
19 property clerk till this matter is completed.

20 THE COURT: Well, that position is new. You make a
21 good point. I was, quite frankly, I was thinking about this in
22 terms of a criminal defendant, and so on and so on before me.
23 You tell me now I can't do that.

24 I certainly respect your analysis, and maybe you're
25 right. So, in any case, that issue has not been presented to

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1 me before, and so my suggestion would be that you inspect those
2 documents, whatever they've got, and then I guess, I guess
3 you'll have to decide where am I in this?

4 What is my authority to compel them to take over, to
5 return materials which you say, I am sure you would say, they
6 should not have been taken in the first place. So that one I
7 guess if you all want to wrestle some more on that issue, tell
8 me when you want to do it.

9 MR. SMITH: Well, I do want to wrestle with that
10 issue. I also want to wrestle with the next issue, which is
11 there was a digital recorder that was also in his apartment,
12 and they came, they took it. They took him, and now I'm being
13 told that I have to ask for permission to get my property back
14 from the City of New York, a governmental entity.

15 THE COURT: The city is now telling me that I don't
16 have the authority to do what you want me to do. I'd be
17 inclined to say yeah, turn over the -- return the -- I mean,
18 common sense, common sense is not one of the things that has
19 dominated this litigation from the beginning.

20 Common sense would say yes, give him back the tape
21 recorder, but now they stole it -- excuse me -- they possessed
22 it. They possessed it.

23 MS. METTHAM: It was given freely by --

24 THE COURT: It is in the hands of the NYPD and they
25 tell me I haven't got the power to compel them to turn it over.

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1 MR. SMITH: Maybe showing up here was a mistake, but I
2 would like to point out that the city has said that your Honor
3 doesn't have the power to order NYPD to do anything. They
4 didn't say that in their papers.

5 They also said the NYPD doesn't have the power to turn
6 over a rifle to anybody but its possessor, but they provide no
7 authority for that. Now they're saying jump through another
8 hoop, and I'm missing the authority for any of this. All I
9 have on my side is common sense.

10 THE COURT: Yes. Well, be thankful for that.

11 MR. SMITH: At the end of the day, I'll know whether
12 or not to be thankful for that.

13 THE COURT: Well, look, let's do this.

14 Do you want to press your position? Does the city
15 want to? Common sense, exemplified for the first time by me,
16 says give him back the tape recorder.

17 The rifle you can keep. The documents, I would say
18 turn them over. Keep copies if you want, but return the
19 documents that were in the apartment. If you think that is
20 wrong, then next week this time we'll hear. I don't know.

21 MS. METTHAM: Because, your Honor, the documents,
22 again that is why I thought an inspection might be helpful.

23 To be perfectly frank, I am not a hundred percent sure
24 what these documents have on them. I would like to inspect
25 them with plaintiff's counsel first. If they are the documents

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1 I believe they are based on some of the plaintiff's statements,
2 what are called 61's or complaint reports and arrest reports
3 that include again information, they may be sealed.

4 THE COURT: That is an entirely different thing again
5 that wasn't before me. So I think, look, I do understand the
6 difficulties of this case, I do. Let's not try to magnify them
7 and let's try to reverse them. If you want to:

8 First of all, find out what is in the documents;

9 Second, if you want to press this point further, tell
10 counsel the authority upon which you're doing it, and if you
11 all cannot agree, you can come back. I'm sorry about that, but
12 I don't know of any better way to handle it.

13 We can do it next week or two weeks from now, whatever
14 you think. It certainly seems like a mountain made out of a
15 molehill to me, but anyhow, let's plan on it next week unless
16 you all can resolve it.

17 MS. METTHAM: Could we make that two weeks from now?

18 I think that in order to inspect these documents and
19 meet with our client, I think it might take a little more time
20 and to draft any papers.

21 THE COURT: Okay. Anything else?

22 MR. SMITH: No. We also did an inspection of 8-1
23 recently, and we were going to look at Officer Schoolcraft's
24 lockers, and then we learned there is stuff in there. There
25 was a watch and books and other stuff, we wanted to take that

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1 back. We learned the contents of the lockers has been removed
2 and there is an ongoing investigation about what happened to
3 the lockers. Since I don't know the results of that
4 investigation, I didn't come to your Honor complaining about it
5 just yet, but since we're discussing this, I thought I'd
6 mention, I am seeing another, another ball coming this way.

7 THE COURT: Well, why don't you include that in this
8 discussion with the city.

9 MR. SMITH: I will do that.

10 THE COURT: See if you can work it out.

11 MR. LEE: Since he opened the door to bringing things
12 up that hadn't been on your agenda for this case, the city had
13 written a letter on September 17 requesting information that
14 comes out in the recent book that was published about this
15 case, and the reason I am bringing it up now, we are going to
16 question Mr. Schoolcraft Thursday and Friday. Some of these
17 items we really should have in our possession before that.

18 For instance, he gave, apparently there is a 10 page,
19 handwritten statement which delineates Mr. Schoolcraft's
20 history of what happened at the hospital. That certainly is
21 relevant. We certainly should have that before we question
22 him. There are some other e-mails to reporters that she
23 brought up and other things.

24 THE COURT: Forgive me, but what is the status? You
25 made a demand for it?

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1 MR. LEE: September 17 it was demanded.

2 MS. METTHAM: Plaintiff has not responded yet, which
3 is the only reason I hadn't brought it up to your Honor quite
4 yet.

5 THE COURT: Thank you for telling me there is yet
6 another problem perhaps. Wherever that is, presumably it will
7 be produced if it exists, but I don't know.

8 MR. LEE: Thank your Honor.

9 MR. LEE: If not, we'll bring it up October 9th.

10 THE COURT: Yes, okay. Anything else?

11 MS. METTHAM: No, your Honor.

12 THE COURT: Nice to have you all here. I look forward
13 to see you again.

14 MR. SMITH: In two weeks.

15 THE COURT: And again.

16 MS. METTHAM: And again.

17 (Court adjourned)